

REMARKS

Administrative Overview

Claims 1-45 were considered in the Office action dated December 4, 2006.

The Office action rejects claims 1-45 under 35 U.S.C. 101, alleging the claimed invention is directed to non-statutory subject matter.

The Office action rejects claims 1-18, 20-36, 38, and 40-45 under 35 U.S.C. 103(a) as allegedly being unpatentable over “Adobe Photoshop 7.0 Classroom in a Book,” 6/25/2002 (**Adobe**), and further in view of Swanson Tech Support, “Photoshop Techniques 004: How to use Postscript Art as a Stencil in Photoshop,” 1994 (**Swanson**).

The Office action rejects claim 37 under 35 U.S.C. 103(a) as allegedly being unpatentable over **Adobe** and **Swanson**, and further in view of U.S. Patent No. 7,120,293 (**Schoelkopf**).

The Office action rejects claim 39 under 35 U.S.C. 103(a) as allegedly being unpatentable over **Adobe** and **Swanson**, and further in view of U.S. Patent No. 5,977,981 (**Brown**).

The Office action states that claim 19 [mistakenly referenced on page 18 of the Office action as claim 17] is drawn to Allowable Subject Matter and is objected to as dependent from a rejected base claim.

Without acquiescing to the rejections, Applicants amend independent claim 1 to incorporate limitations of dependent claims 2, 3, 30, and 31, and to recite a “displaying” step, as reflected in the Listing of Claims. The displaying step is supported in the patent application as originally filed, for example, in Figure 2, reference **212**. No new matter is added. Applicants cancel without prejudice dependent claims 2, 3, 30, and 31 (rendering their rejections moot), and Applicants amend dependent claims 4, 5, 13-16, 18, 19, 32, and 33 to correct informalities following the amendment of independent claim 1. No new matter is added.

Applicants cancel without prejudice claims 35-45 (rendering their rejections moot), reserving the right to pursue one or more of these claims in one or more divisional or continuation applications.

Applicants add new independent claim 46, based on original objected-to claim 19, rewritten in independent claim form. Applicants also add new dependent claims 47-51, each depending either directly or indirectly from claim 46. Claims 47-51 are based on original claims 5, 4, 26, 27, and 28, respectively. No new matter is added.

Applicants add new independent apparatus claim 52 based on amended method claim 1. The “graphical user interface device” and the “processor configured to run software” in claim 52 are supported in the original specification, for example, at page 14, line 11, and at page 32, lines 3-14. No new matter is added.

Following entry of this paper, claims 1, 4-29, 32-34, and 46-57 will be pending.

Claim 1 is patentable over Adobe and Swanson

Claim 1 is patentable over **Adobe** and **Swanson**, for example, because neither reference teaches or suggests use of a second texture as recited in claim 1.

The Office Action states that **Adobe** does not teach use of the second texture as recited in claim 1, but alleges that the combination of **Swanson** and **Adobe** does.

Swanson appears to teach creation of a mask (e.g., first texture with assigned 100% [only] level of protection), then applying brush strokes directly onto the protected image. However, there is no second texture in which a *plurality* of brush strokes are *accumulated* before blending into the protected image.

As explained in the present application, the use of a second texture as recited in claim 1 provides distinct advantages to prior art stenciling methods. For example, the original specification states the following at pages 4-5 [emphasis added]:

[0014] Because the second texture is able to accumulate graphical data from more than one brush stroke, methods of the invention allow a user to maintain an initial version, or initial layer, of a selected region of an image at a specified opacity in any subsequent composite, regardless of overlapping brush strokes within the selected region. This is
15 done by accumulating graphical input representing one or more brush strokes in the second texture, and by *subsequently* blending the pixels of the second texture, modified by first texture values, into the protected image. The blending is performed, for example, using a compositing function.

[0015] Overlapping portions may result from multiple overlapping brush strokes and/or
20 from a single brush stroke that overlaps itself. Despite the presence of any overlapping portion(s), and despite the number of brush strokes applied following activation of the stencil, methods of the invention can prevent the opacity of an initial version, or initial

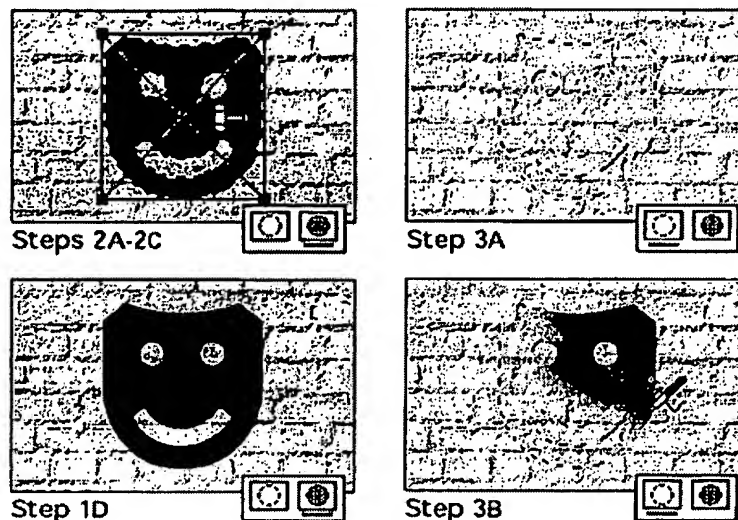
layer, of the selected region(s) from decreasing below a specified minimum in any subsequent composite.

Swanson does not teach directing graphical input of a plurality of brush strokes into a second texture, modifying the second texture using a first texture (mask), then blending the second texture into a protected image, as recited in claim 1. Instead, **Swanson** appears to teach creation of a mask (e.g., first texture with assigned 100% [only] level of protection), then applying brush strokes *directly* onto the protected image, *without* using a second texture for accumulating brush strokes.

Applicants disagree with the statement on page 4 of the Office action, reproduced as follows [emphasis added]:

...the layer on which the drawing occurs inside the selection outline acts as the second texture, and therefore the user[] directs the paint brush strokes by drawing into the second texture; since second texture is a different layer than the protected brick image, the brick image is not affected by the drawing using the paint brush strokes.

The brick image is, in fact, affected by the brush strokes in Step 3B [see drawings in **Swanson**, reproduced below]. The “second texture” referred to in the Office action is a mask (e.g., a “first texture” with 100% protection level), it is not a texture in which a plurality of brush strokes are accumulated, separate from the mask and separate from the protected image. In **Swanson**, there is no texture in which a plurality of brush strokes are accumulated before blending into the protected image, as recited in claim 1 of the present application.



Because the cited art does not teach or suggest all of the limitations of claim 1, then claim 1 is patentable over the cited art. Applicants request the reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. 103(a).

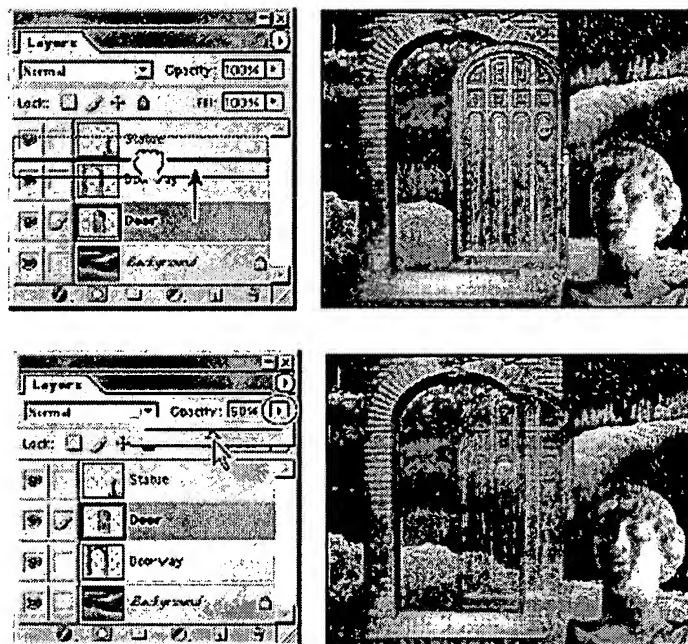
Amended claim 1 recites the step of displaying an image based on the result of step (d). Therefore, claim 1 is directed to a practical application that produces a concrete, tangible and useful result. Applicants request the reconsideration and withdrawal of the rejection of claim 1 under 35 U.S.C. 101.

Each of claims 4-29 and 32-34 depends either directly or indirectly from claim 1, and Applicants request the rejections of (and objection to) these claims be reconsidered and withdrawn, as well, for reasons described with respect to claim 1.

Dependent claim 27 further distinguishes from the cited art

Dependent claim 27 recites creating a first texture comprising a plurality of pixels each with an assigned scalar value indicating a nonzero level of protection less than 100%. None of the cited art teaches this limitation.

The Office action alleges that **Adobe** teaches this limitation at page 138 (50% opacity value). Applicants disagree. The cited portion of **Adobe** simply teaches applying an opacity of 50% to a layer of an image (images from **Adobe** reproduced below):



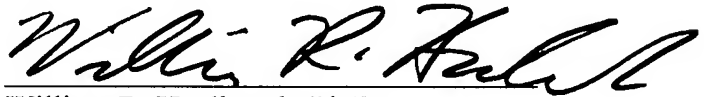
Neither **Adobe** nor any of the other cited references teaches creation of a mask layer to prevent the opacity of an initial image from decreasing below a specified nonzero opacity less than 100%. The prior art only describes masks that provide 100% opacity preservation in designated regions.

Therefore, for this additional reason, Applicants request reconsideration and withdrawal of the rejection of claim 27.

CONCLUSION

Applicants contend this amendment places the claims in condition for allowance. Applicants respectfully request reconsideration and withdrawal of all rejections and objections, and allowance of claims 1, 4-29, 32-34, and 46-57 in due course. The Examiner is hereby cordially invited to contact Applicant's undersigned representative by telephone at the number listed below to discuss any outstanding issues.

Respectfully submitted,



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